

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JOSEPH ROSARIO, et al., individually and on behalf of
all others similarly situated,

Case No. 21-cv-04313 (JS)(ST)

Plaintiffs,

-v-

ICON BURGER ACQUISITION LLC d/b/a
SMASHBURGER,

Defendant.

NOTICE OF MOTION TO DISMISS

PLEASE TAKE NOTICE that upon the accompanying declarations of Gwen
Bohlender and Norca Delgado, and attached supporting exhibits, the Memorandum of Law in
Support of Defendant's Motion to Dismiss Or, Alternatively, To Compel the Arbitration of
Plaintiff Joseph Rosario's Claims, and upon all the pleadings and proceedings herein,
Defendant Icon Burger Acquisition LLC d/b/a Smashburger, by and through the undersigned
counsel, will move this Court, at a date and time to be determined by the Court, before The
Honorable Joanna Seybert, United States District Court Judge, Eastern District of New York,
at the United States Courthouse, 100 Federal Plaza, Central Islip, New York 11722, for an order
pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure granting
Defendant's Motion to Dismiss or, alternatively, for an order compelling Plaintiff Joseph
Rosario to individually arbitrate—not litigate—his claims pursuant to the Federal Arbitration
Act, 9 U.S.C. §§ 3-4, and for such other and further relief as the Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE that, in accordance with the Court's Local Civil Rule 6.1(b), Plaintiffs' opposition is due on April 4, 2022, and Defendant's reply is due on April 11, 2022.

Dated: March 21, 2022
Melville, New York

/s/ Daniel Gomez-Sanchez

Daniel Gomez-Sanchez
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